

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TIFFANY C. HULING,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

17-CV-07962 (PMH) (AEK)

PHILIP M. HALPERN, United States District Judge:

Tiffany C. Huling (“Plaintiff”) initiated this action seeking review of a final administrative decision rendered by the Commissioner of Social Security (“Commissioner”) denying her application for benefits under Title II of the Social Security Act on October 16, 2017. (Doc. 2). On November 9, 2017, Judge Román, before whom this matter proceeded before being transferred to this Court on April 13, 2020, referred this matter to Magistrate Judge Smith (Doc. 5), and on October 15, 2020, the matter was reassigned to Magistrate Judge Krause.

On April 16, 2018, the Commissioner filed a motion for judgment on the pleadings (Doc. 12; *see also* Doc. 13). Plaintiff’s time to oppose the Commissioner’s motion was twice extended *sua sponte* (Docs. 14, 16); Plaintiff has not filed any opposition to date. On May 10, 2021, Judge Krause issued an Order in light of the *Carr* decision (141 S. Ct. 1352 (2021)), directing the parties to meet and confer regarding whether this case should be remanded to the Commissioner for a new hearing before a constitutionally appointed ALJ different from the ALJ who previously heard and adjudicated Plaintiff’s claim for benefits. (Doc. 18). On August 20, 2021, Plaintiff’s mother, Bertha Bell, filed a letter explaining that Plaintiff had been hospitalized and asked the Court, on Plaintiff’s behalf, to remand the case to the Commissioner. (Doc. 22). On August 23, 2021, the Commissioner filed a letter advising that it had no objection to remand. (Doc. 23).

Magistrate Judge Krause, in a Report and Recommendation (“R&R”) dated September 1, 2021, recommended that this Court terminate as moot the Commissioner’s motion for judgment on the pleadings (Doc. 12); remand this case to the Commissioner for further proceedings before a properly appointed ALJ; and that upon remand, this case be assigned to a different ALJ than the one who conducted the original hearing and issue the original agency decision. Judge Krause further recommended that the Clerk of the Court be instructed to enter judgment in Plaintiff’s favor, directing remand. (Doc. 24 at 6-7). Neither party has filed any objections to the R&R.

In reviewing a magistrate judge’s report and recommendation, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may object to a report and recommendation “[w]ithin fourteen days after being served with a copy . . . .” *Id.* Where, as here, “no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record.” *Roundtree v. Comm’r of Soc. Sec.*, No. 19-CV-7347, 2021 WL 431452, at \*1 (S.D.N.Y. Feb. 8, 2021) (quoting *Rivera v. Comm’r of Soc. Sec.*, 728 F. Supp. 2d 297, 303 (S.D.N.Y. 2010)).

Upon a careful and complete review of the R&R, the Court finds no clear error in Magistrate Judge Krause’s thorough and well-reasoned analysis and adopts the R&R in its entirety for the reasons set forth therein. Consequently, the Commissioner’s motion for judgment on the pleadings is terminated as moot (Doc. 12); this matter is REMANDED to the Commissioner for further proceedings before a properly appointed ALJ; and that upon remand, this case be assigned to a different ALJ than the one who conducted the original hearing and issue the original agency decision.

The Clerk of the Court is respectfully directed to terminate the motion at Doc. 12, and to enter judgment in Plaintiff's favor, directing remand.

**SO ORDERED:**

Dated: White Plains, New York  
September 21, 2021

A handwritten signature in black ink, appearing to read 'PHM', with a long, sweeping horizontal stroke extending to the right.

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PHILIP M. HALPERN  
United States District Judge